

REMARKS

Claims 1-36 remain in the application although claims 4-6, 10-24, and 28-34 have been withdrawn from consideration as a result of the Examiner's restriction requirements.

RESTRICTION / ELECTION

The Examiner has acknowledged that Applicants have elected invention Group I (claims 1-14, 35 and 36 drawn to a vinyl halide film, and Applicants have further elected Species I, homopolymer of vinyl chloride for Species Group I. However, the Examiner has noted that Applicants have failed to elect one species from Species Group II and that since the claims are directed to various species in Species Group II, for example claim 6 directed to a nitrile rubber and claim 27 directed to a terpolymer which is distinct and independent from nitrile rubber the restriction is proper. As such, the Examiner has suggested that Applicants response to restriction requirement is incomplete. The Species Group II has been repeated and Applicant has been required under 35 USC §121 to elect a single disclosed species from each species group for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable. Currently, 1, 3, 7-10, 12-15, 17, 21, 22, 24, 25, 28 and 29 are considered generic by the Examiner.

In response to the requirement for the election of a species from Species Group II, Applicants hereby elect Species 23, namely, a terpolymer of an olefin, a comonomer selected from acrylic acids or esters, methacrylic acids and esters and vinyl acetates, and carbon monoxide. (See claims 26 and 27). Applicants submit that claims 1-3, 7-9, 25-27 and 35-36 read on the elected species.

For the record, contrary to the Examiner's statement on page 3 of the Communication mailed on 9/22/04 that Applicants' response to restriction requirement is incomplete because Applicants failed to elect a species from Group II, Applicants submit that the response was complete. In the most recent Office Action, the Examiner stated on page 4

Applicant is required under 35 USC §121 to elect a single disclosed species from each Species Group for prosecution on the merits....

However, in the Official Action mailed April 14, 2004, the Examiner's requirement found on page 6 is as follows:

Applicant is required under 35 USC §121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted....

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement....

Since the Examiner, in the Communication mailed April 14, only required the election of a "single disclosed species" and not a "single disclosed species from each Species Group", Applicants submit that the response to the original species restriction requirement was complete. In any event, Applicants believe that this issue is now moot in view of the above election.

CONCLUSION

In view of the above election and comments, the Examiner is requested to issue an action on the merits with regard to elected claims 1-3, 7-9, 25-27 and 35-36. An early action is solicited.

In the event that any fees are required for the filing of this paper, the Commissioner is authorized to charge those fees to Deposit Account No. 18-0988, Docket Number AVERP2997USA.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By Armand P. Boisselle
Armand P. Boisselle
Reg. No. 22,381

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113